

House Engrossed

State of Arizona
House of Representatives
Forty-fifth Legislature
Second Regular Session
2002

HOUSE CONCURRENT RESOLUTION 2013

A CONCURRENT RESOLUTION

**ENACTING AND ORDERING THE SUBMISSION TO THE PEOPLE OF A MEASURE RELATING TO
PROBATION.**

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it resolved by the House of Representatives of the State of Arizona, the
2 Senate concurring:

3 1. Under the power of the referendum, as vested in the Legislature,
4 the following measure, relating to probation for persons convicted of
5 possession or use of controlled substances or drug paraphernalia, is enacted
6 to become valid as a law if approved by the voters and on proclamation of the
7 Governor:

8 AN ACT

9 AMENDING SECTION 13-901.01, ARIZONA REVISED STATUTES; RELATING
10 TO PROBATION.

11 Be it enacted by the Legislature of the State of Arizona:

12 Section 1. Section 13-901.01, Arizona Revised Statutes,
13 is amended to read:

14 13-901.01. Probation for persons convicted of possession
15 or use of controlled substances or drug
16 paraphernalia; treatment; prevention;
17 education; definition

18 A. Notwithstanding any law to the contrary, any person
19 who is convicted of the personal possession or use of a
20 controlled substance ~~as defined in section 36-2501~~ OR DRUG
21 PARAPHERNALIA is eligible for probation. The court shall
22 suspend the imposition or execution of sentence and place such
23 THE person on probation.

24 B. Any person who has been convicted of or indicted for
25 a violent crime as defined in section 13-604.04 is not eligible
26 for probation as provided for in this section but instead shall
27 be sentenced pursuant to ~~the other provisions of~~ chapter 34 of
28 this title.

29 C. Personal possession or use of a controlled substance
30 pursuant to this section shall not include possession for sale,
31 production, manufacturing or transportation for sale of any
32 controlled substance.

33 D. If a person is convicted of personal possession or use
34 of a controlled substance ~~as defined in section 36-2501~~ OR DRUG
35 PARAPHERNALIA, as a condition of probation, the court shall
36 require participation in an appropriate drug treatment or
37 education program administered by a qualified agency or
38 organization that provides such programs to persons who abuse
39 controlled substances. Each person WHO IS enrolled in a drug
40 treatment or education program shall be required to pay for
41 participation in the program to the extent of the person's
42 financial ability.

43 E. A person who has been placed on probation under the
44 provisions of PURSUANT TO this section and who is determined by
45 the court to be in violation of probation shall have new

1 conditions of probation established by the court. The court
2 shall select the additional conditions it deems necessary,
3 including intensified drug treatment, community service,
4 intensive probation, home arrest, or any other such sanctions
5 short of incarceration EXCEPT THAT THE COURT SHALL NOT IMPOSE A
6 TERM OF INCARCERATION UNLESS THE COURT DETERMINES THAT THE
7 PERSON VIOLATED PROBATION BY COMMITTING AN OFFENSE LISTED IN
8 CHAPTER 34 OR 34.1 OF THIS TITLE OR AN ACT IN VIOLATION OF AN
9 ORDER OF THE COURT RELATING TO DRUG TREATMENT.

10 F. If a person is convicted a second time of personal
11 possession or use of a controlled substance as defined in
12 section 36-2501 OR DRUG PARAPHERNALIA, the court may include
13 additional conditions of probation it deems necessary, including
14 intensified drug treatment, community service, intensive
15 probation, home arrest or any other action within the
16 jurisdiction of the court.

17 G. AT ANY TIME WHILE THE DEFENDANT IS ON PROBATION, IF
18 AFTER HAVING A REASONABLE OPPORTUNITY TO DO SO THE DEFENDANT
19 FAILS OR REFUSES TO PARTICIPATE IN DRUG TREATMENT, THE PROBATION
20 DEPARTMENT OR THE PROSECUTOR MAY PETITION THE COURT TO REVOKE
21 THE DEFENDANT'S PROBATION. IF THE COURT FINDS THAT THE
22 DEFENDANT REFUSED TO PARTICIPATE IN DRUG TREATMENT, THE
23 DEFENDANT SHALL NO LONGER BE ELIGIBLE FOR PROBATION UNDER THIS
24 SECTION BUT INSTEAD SHALL BE SENTENCED PURSUANT TO CHAPTER 34 OF
25 THIS TITLE.

26 ~~G. H. A person who has been convicted three times of~~
27 ~~personal possession or use of a controlled substance as defined~~
28 ~~in section 36-2501 is not eligible for probation under the~~
29 ~~provisions of this section but instead shall be sentenced~~
30 ~~pursuant to the other provisions of chapter 34 of this title IF~~
31 ~~THE COURT FINDS THE PERSON EITHER:~~

32 1. HAD BEEN CONVICTED THREE TIMES OF PERSONAL POSSESSION
33 OF A CONTROLLED SUBSTANCE OR DRUG PARAPHERNALIA.

34 2. REFUSED DRUG TREATMENT AS A TERM OF PROBATION.

35 3. REJECTED PROBATION.

36 I. SUBSECTIONS G AND H OF THIS SECTION DO NOT PROHIBIT
37 THE DEFENDANT FROM BEING PLACED ON PROBATION PURSUANT TO SECTION
38 13-901 IF THE DEFENDANT OTHERWISE QUALIFIES FOR PROBATION UNDER
39 THAT SECTION.

40 J. FOR THE PURPOSES OF THIS SECTION, "CONTROLLED
41 SUBSTANCE" HAS THE SAME MEANING PRESCRIBED IN SECTION 36-2501.

42 2. The Secretary of State shall submit this proposition to the voters
43 at the next general election as provided by article IV, part 1, section 1,
44 Constitution of Arizona.

PASSED BY THE HOUSE APRIL 9, 2002.

- 2 -

PASSED BY THE SENATE MAY 7, 2002.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 8, 2002.

Passed the House April 9, 20 02

by the following vote: 39 Ayes

13 Nays, 8 Not Voting

Jake Flake
Speaker of the House
Pro Tempore
Norman L. Moore
Chief Clerk of the House

Passed the Senate May 7, 20 07

by the following vote: 23 Ayes

5 Nays, 2 Not Voting

Kendall Arnt
President of the Senate
Charmine Ballington
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Resolution was received by the Secretary of State

H.C.R. 2013

this 8 day of May, 20 02

at 8:07 o'clock A M.

Britney Bayless
Secretary of State